

IN THE SUPREME COURT OF THE UNITED STATES

VIVEK H. MURTHY, U.S. SURGEON GENERAL, ET AL.,

APPLICANTS

v.

MISSOURI, ET AL.

NOTICE AND MEMORANDUM OF MICHAEL E. REZNICK, INTERESTED PARTY,  
AMICUS BRIEF FILER, AND FORMER COUNSEL OF RECORD FOR PLAINTIFFS  
AND PROSPECTIVE PRO PER PLAINTIFF IN RELATED CASE CAPTIONED  
*RICHARD JACKSON V. TWITTER, INC., ET AL.*, U.S.D.C. CASE NO. 2:22-cv-09438 IN  
OPPOSITION TO THE THIRD SUPPLEMENTAL MEMORANDUM REGARDING  
EMERGENCY APPLICATION FOR A STAY BY VIVEK H. MURTHY, U.S. SURGEON  
GENERAL, ET AL.

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Pro Per Plaintiff in Related Case captioned  
*Richard Jackson, et al. v. Twitter, Inc., et al.*,  
USDC Case No. 2:22 – cv-09438 (Central  
District of California)

[Hearing on Application to Substitute into Case  
as Party and Related Issues Continued by Court  
on its own Motion to October 13, 2023]

TO THE HONORABLE SUPREME COURT OF THE UNITED STATES AND TO ALL INTERESTED  
PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:

YOU ARE HEREBY NOTIFIED THAT Michael E. Reznick (“Reznick”), Interested Party, Amicus Brief Filer and Former Counsel of Record for Plaintiffs and Prospective Pro Per Plaintiff in a “related case” captioned *Richard Jackson, et al. v. Twitter, Inc., et al.*, USDC Case No. 2:22 – cv-09438 (Central District of California) (the “Jackson Case”) -- objects to the “Third Supplemental Memorandum Regarding Emergency Application for a Stay by Vivek H. Murthy, U.S. Surgeon General, et al.” (the “Application”) and in particular, the Biden Administration’s requested stay of the injunction and judgment issued by the Fifth Circuit Court of Appeal on October 3, 2023, for each and all of the following reasons:

1. On December 29, 2022, Reznick filed a Complaint against Twitter, Inc., a number of other large social media companies and retailers, the Teacher’s Union and Federation, the National School Board Association and the Democratic Services Corporation (“DNC”), *Jackson, et al. v. Twitter, Inc., et al.*, USDC Case No. 2:22-cv-09438 (the “Jackson Case”).

2. The Jackson Case is still in the pleading stages but the Complaint (the “Jackson Complaint”) is patterned after the Complaint filed herein, relying on the most of the same evidence (hyperlinked throughout the Jackson Complaint for easy reference).

3. The gravamen of the Jackson Complaint is that the named “private party” Defendants - as actual and ostensible agents of the Biden Administration - violated Plaintiffs’ First Amendment rights and interfered with the 2022 and upcoming 2024 election by censoring conservative speakers and speech from their social media platforms and in various other ways - committing what the Fifth Circuit has identified and described as “viewpoint suppression.” (See *Missouri v. Biden*, (5<sup>th</sup> Cir. Slip Opinion filed October 3, 2023)).

4. The facts alleged in the Jackson Complaint are so inextricably connected and related to the facts in *Missouri v. Biden* that any conclusions of fact and law made by the District

Court, Fifth Circuit and/or United States Supreme Court in *Missouri v. Biden* will invariably impact, affect and guide the litigants and parties in the Jackson Case.

5. As a consequence, Reznick filed a “Notice of Related Case” in the Jackson Case on or about April 4, 2023. (The District Court has not yet ruled on whether the two cases are in fact “related”).

6. The Plaintiffs in the Jackson Case rely on the same evidence that the fact-finders in *Missouri v. Biden* found so persuasive and compelling that they issued a nationwide, sweeping injunction against the Biden Administration to prevent any further censorship against conservative speech or “viewpoint suppression.” Regrettably, the injunction issued by the Fifth Circuit does not go far enough because it omits from its scope the so-called “private parties” identified as Defendants in the Jackson Complaint whom Plaintiffs allege were and are acting as the actual and ostensible agents of the Biden Administration in carrying out the Administration’s and Defendant’s vast censorship scheme.

7. Accordingly, in addition to filing an Amicus Brief if the Court grants Certiorari, Reznick and the Plaintiffs in the Jackson Case have a direct stake in the outcome of *Missouri v. Biden* and thus standing to object to the Biden Administration’s Application on each and all of

the following grounds:

**THE STAY WILL NOT MAINTAIN THE STATUS QUO BUT RATHER GIVE THE BIDEN ADMINISTRATION AND ITS PRIVATE PARTY AGENTS UNFETTERED DISCRETION TO CONTINUE TO INTERFERE WITH THE 2024 ELECTION BY SUPPRESSING SPEECH AND VIEWPOINTS THEY DO NOT AGREE WITH OR LIKE UNDER THE GUISE OF “MISINFORMATION” OR “MALINFORMATION”**

8. After *de novo* review (twice), the Fifth Circuit found in favor of the Plaintiffs in this case and concluded that “numerous federal officials coerced social-media platforms into censoring certain social-media content, in violation of the First Amendment,” affirming for the most part the injunction against “viewpoint suppression” issued by the United States District Court on July 4, 2023.

9. Despite this landmark First Amendment decision, the Biden Administration’s third supplemental memorandum and requested stay asks the Supreme Court to let the administration and its purported private party agents to continue to “conduct business as usual.”

10. According to the Fifth Circuit, conducting “business as usual” by the Biden Administration and its agents, in summary fashion, looks like this:

“For the past few years – at least since the 2020 presidential transition – a group of federal officials has been in regular contact with nearly every American social media company about the spread of “misinformation” on their platforms. In their concern, those officials – hailing from the White House, the CDC, the FBI, and a few other agencies – urged the platforms to remove disfavored content and accounts from their sites. And, the platforms seemingly complied. They gave the officials access to an

expedited reporting system, downgraded or removed flagged posts, and deplatformed users. The platforms also changed their internal policies to capture more flagged content and sent steady reports on their moderation activities to the officials. That went on through the COVID-19 pandemic, the 2022 congressional election *and continues to this day*. . . .

“The [*Missouri v. Biden*] Plaintiffs – three doctors, a news website, a healthcare activist and two states – had posts and stories removed or downgraded by the platforms. Their content touched on a host of divisive topics like the COVID-19 lab-leak theory, pandemic lockdowns, vaccine side-effects, election fraud, and the Hunter Biden laptop story. The Plaintiffs maintain that although the platforms stifled their speech, the government officials were the ones pulling the strings – they ‘coerced, threatened, and pressured [the] social-media platforms to censor [them]’ through private communications and legal threats.”

(*Missouri v. Biden*, Slip Opinion at pp. 2-3) (Fifth Circuit filed October 3, 2023) (Emphasis Added).

11. The Fifth Circuit’s detailed discussion that follows reads like George Orwell’s “1984” and demonstrates just how pervasive and far-reaching the Biden Administration’s censorship scheme was and is. More importantly, the Fifth Circuit opinion describes how deftly the Biden Administration used and will continue to use its allies in the private sector if its censorship scheme is left unchecked by this Court – private parties whom the Plaintiffs in the Jackson Case are also seeking to enjoin.

12. Permitting the Biden Administration and the Jackson Case Defendants to continue

to conduct “business as usual” while the *Missouri v. Biden* case is still pending before this Court will not only irreparably harm the Plaintiffs and all those similarly situated in the Jackson Case, but also countless other citizens of the United States of America who simply want to decide for themselves who to vote for without further “gaslighting,” viewpoint suppression and election interference by the Biden Administration and its private party cohorts.

13. And in fairness, why should the Biden Administration and its private party allies get a pass or the benefit of the doubt in this case? Both the United States District Court and Fifth Circuit found irreparable harm and a reasonable probability of success on the merits. Simply stated, the Biden Administration lost the battle and the war. The People won.

14. Moreover, contrary to the Applicant’s assertion that the Fifth Circuit’s October 3, 2023 decision “relies on the same flawed conception of the state-action doctrine to extend injunctive relief to yet another set of government defendants” (Application at page 2), the Fifth Circuit considered and soundly rejected the government’s arguments in concluding that Judge Doughty’s reasoning was not flawed in any respect and in fact correct in finding that equitable relief was warranted, justified and appropriate at this time to redress the Plaintiffs’ grievances in *Missouri v. Biden*.

15. The Fifth Circuit’s and Judge Doughty’s factual findings are not only sound and reasonable they shock the conscience. If this Court allows the Biden Administration and its private party allies to continue to conduct “business as usual,” the decision would at best “chill” conservative viewpoints and speakers from freely speaking their minds and at worst decide the 2024 election in favor of those who are trying to suppress conservative speech under the misleading and insulting guise of “misinformation.”

16. Finally, the Fifth Circuit’s opinion has already modified the July 4, 2023

injunction to deal with many of the government's stated concerns.

17. For each and all of the foregoing reasons, this Court should deny in its entirety the Biden Administration's request for a stay of the modified injunction pending a review of and decision of the government's Petition for Writ of Certiorari. If this Court grants Certiorari, it should also make clear in the interim that the Jackson Case is a "related case" under the federal rules and that the injunction issued on July 4, 2023 (as modified) also includes within its scope the named private party Defendants in the related Jackson Case.

DATED: October 6, 2023

/s/ Michael E. Reznick  
Michael E. Reznick

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Interested Party, Amicus Brief Filer and Former  
Counsel of Record for Plaintiffs in Related Case  
captioned *Richard Jackson, et al. v. Twitter, Inc.,*  
*et al.*, USDC Case No. 2:22 - cv- 09438

Hearing and Oral Argument on Application to  
Substitute into Case *Pro Per* as Party and Other  
Related Issues Continued by Court to October  
13, 2023

**CERTIFICATE OF SERVICE**

I hereby certify that on October 6, 2023, I electronically filed the foregoing document entitled:

**NOTICE AND MEMORANDUM OF MICHAEL E. REZNICK, INTERESTED PARTY, AMICUS BRIEF FILER, AND FORMER COUNSEL OF RECORD FOR PLAINTIFFS AND PROSPECTIVE PRO PER PLAINTIFF IN RELATED CASE CAPTIONED *RICHARD JACKSON V. TWITTER, INC., ET AL.*, U.S.D.C. CASE NO. 2:22-cv-09438 IN OPPOSITION TO THE THIRD SUPPLEMENTAL MEMORANDUM REGARDING EMERGENCY APPLICATION FOR A STAY BY VIVEK H. MURTHY, U.S. SURGEON GENERAL, ET AL.**

With the Clerk of the United States Supreme Court, located at 1 First Northeast, Washington, DC 20543

I certify that all parties of record to this appeal either are registered CM/ECF users, or have registered for electronic notice, or have consented in writing to electronic service, and that service will be accomplished through the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California and United States of America that the foregoing is true and correct.

Executed on October 6, 2023 at Oak Park, California.

/s/ Michael E. Reznick